

[S.C. Code Regs. 103-805](#)

This document is current through State Register Volume 44, Issue 11, effective November 27, 2020.

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103-805. Representation.

A. Parties and Their Representatives. Parties in a case have the right to participate or to be represented in all hearings or pre-hearing conferences related to their case. Except as otherwise provided herein, a party must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR. No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law.

B. Representation of Entities. Except as otherwise provided in [S.C. Code Ann. Regs. 103-805\(E\)](#), any entity including, but not limited to, a corporation, partnership, limited liability company, or professional association, must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR.

C. Representation of Individuals. An individual person not admitted to practice law in South Carolina may represent himself or herself, but may not represent another person. A party proceeding without legal representation shall remain fully responsible for compliance with the commission's regulations and the Administrative Procedures Act, and must agree to E-Filing and E-Service as provided in S.C. Code Ann. Regs. 103-817.1 unless excused from doing so for good cause shown.-

D. Notice of Appearance. An attorney or other person authorized to represent a party before the commission pursuant to this regulation shall file with the commission a notice of appearance when retained or authorized to represent a party after commencement of a case.

E. Unopposed Matters in Which an Entity May Proceed without Counsel. Subject to the conditions specified in this regulation, an entity may proceed through an authorized agent in any unopposed case, including but not limited to the following:

- 1) application for approval of a tariff,
- 2) application for approval of a contract,
- 3) application for approval of an interconnection agreement between telephone carriers,
- 4) application for approval of a name change,
- 5) application for a certificate of public convenience and necessity to operate as a Class C motor carrier, including a charter passenger carrier, a charter bus, and a taxi, and
- 6) application of a mover of household goods for a certificate of FWA.

If the entity chooses not to use an attorney, it shall include in its submission a written statement from the entity's president, chairperson, general partner, owner, chief executive officer, or authorized agent which states substantially the following:

"I am owner, officer, director, or other person authorized to act on behalf of [Name of Company], and on behalf of [Name of Company], I have elected to submit [Title of Document] to the Public Service Commission of South Carolina without the benefit of legal counsel admitted to practice in

South Carolina. In electing to file [Title of Document] without legal counsel, I acknowledge and agree to assume the risk, if any, of resulting adverse legal consequences.”

However, if the case becomes opposed, the unrepresented entity must obtain legal representation by an attorney authorized to practice law in South Carolina in order for the commission to allow the matter to proceed.

F. Motion to Withdraw from Representation. An attorney or other person authorized to represent a party before the commission pursuant to this regulation must file a written motion to withdraw from representation of a party or from participation in proceedings.

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

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S.C. Code Regs. 103-817

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103-817. Proceedings.

A. Nature of Proceedings. If required by law and upon filing of a pleading as set forth in R.103-819, et. seq., proceedings for the purpose of rulemaking, ratemaking, licensing, determining rights, duties, or privileges of any party, and undertaking an official inquiry for the purposes of gathering information or making determinations, which fall under the jurisdiction of the Commission, shall be conducted by one or more Commissioners, or by a hearing examiner through the development of a formal record.

B. Initiation of Proceedings.

(1) All proceedings shall be initiated by filing with the Chief Clerk at the business offices at the Commission an original and copies, as determined by the Commission, of an appropriate pleading unless otherwise provided, as designated in R.103-819, et seq.

(2) The Chief Clerk may refuse to accept for filing any pleading which does not conform to the rules of the Commission, and shall ~~mail-furnish~~ written notice to the party or the authorized representative within ten days after receipt, stating why it has not been accepted for filing.

C. Conduct of Proceedings.

(1) All pleadings initiating proceedings shall be dated upon receipt and shall be assigned a docket number after filing, and all subsequent pleadings or correspondence shall refer to that docket number. Pleadings will be captioned in accordance with R.103-819, et seq., and shall be processed pursuant to these rules.

(2) The Chief Clerk after filing of the pleadings shall give the Commission notice of such filing at the next regular meeting of the Commission. Where provided by law, any proceeding initiated under these rules may be disposed of without hearing by Order of the Commission within 14 days after the pleading has been accepted for filing, upon the written opinion of the Commission that the pleading on its face shows that a hearing is not necessary, in the public interest, or for the protection of substantial rights.

(3) After any pleading has been accepted for filing, the Chief Clerk may:

(a) Serve the pleadings, as required, in accordance with R.103-830, or within fourteen (14) days, provide the party filing the pleading a Notice of Filing, and, where required by law, the party at its own expense shall publish such notice one time in newspapers having general circulation in the State, or, if applicable, in newspapers having general circulation in the party's service area. Except for good cause shown, proof of publication must be filed on or before the return date. The Chief Clerk, pursuant to other rules of the Commission, may require that the Notice of Filing be mailed to customers and other persons and a certificate of mailing be filed on or before the return date.

(b) Fix a date for hearing, as soon as practicable, and when a date is available on the docket calendar. If the hearing date has not been included in the Notice of Filing, the Chief Clerk shall prepare a Notice of Hearing, and shall forward such Notice of Hearing to all parties. Proof of ~~mailing-service~~ must be placed in the formal record.

- (c) Assign a time and place for any public hearing necessary in the conduct of any proceeding. The Chief Clerk shall likewise cause the pleadings to be served pursuant to these rules or issue written notice of the filing of pleadings which shall be published pursuant to law, and notice of the hearing date assigned for the conduct of any formal proceeding, as provided by law.
- (d) The Chief Clerk shall forward a copy of a Notice of Filing, a Prefile Testimony Letter, or a Transmittal Letter to all parties by electronic service or by U.S. Mail. The Chief Clerk shall forward a Notice of Filing and Hearing, a Notice of Hearing or any other document containing a hearing date to all parties by electronic service or by certified mail.
- (e) Require from a person filing a pleading a letter incorporating a statement presenting the number of witnesses the person expects to offer in the proceeding and an estimate of the time required for the presentation of testimony and exhibits.

(4) Public hearings in the conduct of proceedings shall be held pursuant to R.103-836, et seq.

D. Final Disposition of Proceedings. Proceedings shall be concluded upon the issuance of an order by the Commission or upon a settlement or agreement reached by all parties to the proceedings and formally acknowledged by the Commission by issuance of an order.

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Amended by State Register Volume 12, Issue No. 6, eff June 24, 1988; State Register Volume 31, Issue No. 4, eff April 27, 2007; State Register Volume 39, Issue No. 6, Doc. No. 4455, eff June 26, 2015.

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S.C. Code Regs. 103-817.1

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103-817.1. E-Filing and E-Service.

A. Electronic Filing. The electronic transmission of a document to the E-Filing System in accordance with this Regulation constitutes the filing of that document in accordance with Title 58 of the South Carolina Code and the Commission's Regulations in Chapter 103 of the South Carolina Code of State Regulations.

B. Official Record. Where a document is E-Filed, the electronic version of that filing constitutes the official record. E-Filed documents have the same force and effect as documents filed by Traditional Means. Documents filed by Traditional Means may be converted to electronic format and made part of the docket by the Clerk's Office. Once converted, the electronic version constitutes the official record.

C. Timeliness. A document transmitted and received by the E-Filing System on or before 11:59:59 p.m., Eastern Standard Time, shall be considered filed with the Commission on that date, provided it is subsequently accepted by the Commission. Nothing in this Regulation should be construed to reduce or extend any filing or service deadlines set by statute, the South Carolina Rules of Civil Procedure, or orders of the Commission, except requests for extensions of time to file documents. Such requests must be filed with and approved by the Commission.

D. "Notice of Electronic Filing" or "Notification of Electronic Filing" ("NEF") is a notice generated by the E-Filing System at the time of a filing or other Commission action. An NEF is transmitted by email to all Authorized E-Filers who have filed a Notice of Appearance and are counsel of record in the case and includes a description of the filing and a list of parties to whom the NEF was transmitted.

E. Electronic Service.

(1) Electronic Service of Process Not Authorized. Service of process or service of any pleadings initiating cases cannot be accomplished through the E-Filing System. The E-Filing System may not be used for service of process of a ~~summons and complaint~~ application, petition, complaint, rule to show cause, subpoena, or any other pleading or document required to be personally served under Rule 4, SCRCP (South Carolina Rules of Civil Procedure).

(2) Service of Other Papers on Authorized E-Filers by the E-Filing System. Except as provided in subparagraphs (A) and (B) below, upon the E-Filing of any pleading, motion, or other paper subsequent to the ~~summons and complaint or other~~ filing initiating a case, the E-Filing System will generate and transmit an NEF to all Authorized E-Filers associated with that case after the filing has been accepted for processing by the Commission. Where the parties are proceeding in the E-Filing System and a pleading, motion, or other paper must be filed, made, or served under the Commission's statutes or regulations or the SCRCP, upon the filer's receipt of a confirmation email stating that the filing has been accepted for processing by the Commission, the E-Filing of that pleading, motion, or other paper, together with the transmission of an NEF, constitutes proper service under Rule 5, SCRCP, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations, as to all other parties who are E-Filers in that case. It is the responsibility of an E-Filer to review the content of the E-Filed document in the E-Filing System to determine its force and effect.

(a) No NEF will be created at case initiation; however, the E-Filing System will transmit confirmations of receipt and acceptance of the filing.

(b) NEFs are only transmitted via email to representatives of parties of record. E-Filers should comply with Commission Regulation 103-805 (Representation) for entering an electronic notice of appearance when making an initial responsive filing in a case that was initiated via the E-Filing System.

(3) Service Complete upon E-Filing. Service of a pleading, motion, or other paper by NEF subsequent to the summons and complaint or other filing initiating a case is complete at the time of the submission and the Clerk's Office acceptance of the pleading, motion, or other paper for E-Filing, provided an NEF is transmitted by the E-Filing System in accordance with paragraph (e)(2) of this Section. The act of E-Filing the pleading, motion or other paper is the equivalent of depositing it in the United States Mail under Rule 5(b)(1), SCRCP, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations. The NEF constitutes proof of service under Rule 5(b), SCRCP, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations, and the date of service shall be the date stated in the NEF as the "Official File Stamp." Where notice of the filing of a pleading, motion, or other paper is served by an NEF, the E-Filer need not file proof of service, but the E-Filer must retain a copy of the NEF as proof of service.

(4) Time to Respond Following Electronic Service. Computation of the time for a response after service by NEF is governed by Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations.

(5) Service by or upon a Party Who is Not an E-Filer in a Case.

(a) E-Filed motions, pleadings, or other papers that must be served upon a party who is not represented by an Authorized E-Filer in the case or who is a Traditional Filer must be served by a Traditional Service method in accordance with Rule 5, SCRCP, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations. An Authorized E-Filer who has E-Filed a motion, pleading, or other paper prior to service of the motion, pleading, or other paper shall serve a paper copy of the corresponding NEF on the Traditional Filer(s). The Authorized E-Filer must also file proof of Traditional Service as to all other parties who are Traditional Filers.

(b) Traditional Filers must continue to serve all parties with a paper copy of the motion, pleading, or other paper by a Traditional Service method in accordance with Rule 5, SCRCP, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations, and file a copy of the motion, pleading, or other paper with the Commission, together with proof of service, as required by Rule 5(d), SCRCP, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations.

(6) Failed Transmission of NEF. If an Authorized E-Filer becomes aware that the NEF was not transmitted successfully to other Authorized E-Filers in the case, or that the NEF is deficient, the Authorized E-Filer shall, upon learning of the failure or deficiency, serve the E-Filed document by email, hand delivery, facsimile, or first class mail. Proof of such service shall be E-Filed with the Commission within one business day of service.

History

State Register Volume 44, Issue No. 6, Doc. No. 4883, eff June 26, 2020.

S.C. Code Regs. 103-830

This document is current through State Register Volume 44, Issue 11, effective November 27, 2020.

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103-830. Filing and Service of Pleadings.

All pleadings shall be filed with the Chief Clerk of the Commission and served on the Office of Regulatory Staff unless and until it chooses not to participate in a proceeding.

A. Service of Complaints and Answers.

(1) A complainant requesting a hearing shall file the complaint with the Chief Clerk. The Chief Clerk shall ~~mail~~furnish a copy of the complaint to the defendant within 14 days of filing.

(2) The defendant shall serve its answer on the complainant and shall file its answer with certification of service with the Commission within 30 days of receipt of the complaint, unless an extension of time is granted for good cause shown. Any defendant failing to file its answer within such period, unless an extension of time is granted, shall be deemed in default and all relevant facts stated in such complaint may be deemed admitted.

B. Service of Petitions and Answers.

(1) If a person other than the petitioner is named in a petition for a declaratory order or in a petition for a rule to show cause, the Chief Clerk shall cause a copy of the petition to be ~~mailed~~furnished to such named person within 14 days of the filing of the petition.

(2) The person named in a petition for a declaratory order or in a petition for a rule to show cause shall serve its answer on the petitioner and shall file its answer with certification of service with the Chief Clerk within 30 days of the receipt of the petition from the Chief Clerk unless an extension of time is granted for good cause shown.

(3) A person filing a petition to intervene or a party of record filing a petition for rehearing or reconsideration shall file the petition with certification that service of the petition has been made on all parties of record. The Chief Clerk shall make available to the person seeking to intervene a service list consisting of the names of all parties of record.

C. Service of Amendments. Any amendment to a pleading shall be served and answered, if applicable, according to the requirements specified herein for the type of pleading sought to be amended.

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Amended by State Register Volume 31, Issue No. 4, eff April 27, 2007.

S.C. Code Regs. 103-830.1

This document is current through State Register Volume 44, Issue 11, effective November 27, 2020.

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103-830.1. Service Between Parties of Record.

~~Upon written agreement by all the parties in a docket, s~~Service of filings made in a docket at the commission may be made through e-mail or electronic service. ~~The written agreement memorializing the parties' consents shall be filed with the commission in the appropriate docket.~~

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

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S.C. Code Regs. 103-833

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103-833. Written Interrogatories and Request for Production of Documents and Things.

A. Any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working papers prepared for the pending proceeding.

B. Unless under special circumstances and for good cause shown, written interrogatories shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record written interrogatories to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the interrogatories. ~~Copies of interrogatories served shall also be filed with the Chief Clerk.~~ Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the interrogatories, but not less than 20 days after the service thereof, unless the time is extended by the Commission for good cause shown.

C. Unless under special circumstances and for good cause shown, requests for production of documents and things shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record requests for production of documents and things to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the requests for production of documents and things. ~~Copies of requests for production of documents and things served shall also be filed with the Chief Clerk.~~ Each request for production of documents and things shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the requests for production of documents and things have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the requests for production of documents and things, but not less than 20 days after the service thereof, unless the time is extended by the Commission for good cause shown.

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Amended by State Register Volume 31, Issue No. 4, eff April 27, 2007.

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S.C. Code Regs. 103-841

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103-841. Presiding Officer.

A. In General. When evidence is to be taken in a proceeding before the Commission, any Commissioner or any hearing examiner designated by the Commission may preside at the hearing.

B. Powers and Duties of Presiding Officer. A presiding officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and shall possess all powers necessary to that end, including the following:

- (1) To administer oath and affirmations;
- (2) To order subpoenas issued and to provide for other methods of discovery;
- (3) To receive evidence and rule upon all objections and motions which do not involve final determination of proceedings;
- (4) To take such other action as may be necessary and appropriate to the discharge of duties consistent with the statutory authority or other authorities under which the Commission functions.

~~**C.** Report of Presiding Officer. When a majority of the Commissioners do not hear a proceeding or read the record thereof, the presiding officer shall mail to the parties of record a proposed Order. The proposed Order shall contain a statement of facts relied upon in formulating such Order and each issue of fact or law necessary to it. Any party of record will then have ten days in which to file exceptions, present briefs, and file written requests for oral argument to the Commission, if it is desired to do so. If exceptions and briefs are filed within the prescribed time period, the Commission will consider the points raised therein and will issue its Order based upon the record of the formal proceeding, the proposed Order, and the exceptions and briefs filed. If a written request for oral argument is filed, the Commission will establish a date for such oral argument to be heard and will notify all parties of record as to date, time and place for such argument. Thereafter, the Commission will issue its Order based upon the record of the formal proceeding, the proposed Order, any exceptions and briefs filed, and the oral argument presented. If no exceptions, briefs, or written requests for oral argument are received within the prescribed ten days, the Commission will issue its Order based upon the record of the formal proceeding and the proposed Order.~~

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Amended by State Register Volume 12, Issue No. 6, eff June 24, 1988; State Register Volume 31, Issue No. 4, eff April 27, 2007.

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S.C. Code Regs. 103-845

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103-845. Witnesses.

A. In General. Witnesses shall be examined orally. Witnesses presenting testimony shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

B. Cumulative Testimony Restricted. The presiding officer may limit the number of witnesses whose testimony may be merely cumulative. In order to enforce this section, the presiding officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

C. Prepared Statements and Exhibits. A witness may read into the record, as his direct testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel. A prepared statement of a witness may also be received as an exhibit. All parties of record, insofar as it is practicable, should prefile with all other parties of record copies of prepared testimony and exhibits which the party of record proposes to use during a hearing. In proceedings involving utilities, the Commission shall require any party and the Office of Regulatory Staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. ~~In proceedings involving companies other than utilities, the Commission may require any party and staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. When prepared testimony and exhibits are prefiled with the Commission, twenty-five copies, unless otherwise specified, of such testimony and exhibits must be furnished to the Commission for the use of the Commission and Staff.~~

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Added by State Register Volume 31, Issue No. 4, eff April 27, 2007.

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S.C. Code Regs. 103-848

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103-848. Exhibits.

~~A. Size of Exhibits. Except by special permission of the presiding officer, no prepared exhibits offered as evidence shall be of greater size, when folded, than 8 1/2 inches by 11 inches.~~

B. Copies of Exhibits. When exhibits are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits should also be prepared to furnish a copy to each Commissioner sitting and the presiding officer, each party of record, and the staff, unless such copies have been previously furnished or the presiding officer directs otherwise. Whenever practicable, the parties should exchange copies of exhibits which they propose to use prior to the hearing.

C. Marking of Exhibits. All exhibits shall be marked numerically in the order of identification.

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Added by State Register Volume 31, Issue No. 4, eff April 27, 2007.

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S.C. Code Regs. 103-855

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103-855. Presiding Officer's Proposed Report.

~~In the event a presiding officer hears a matter before the Commission, the parties of record may, by stipulation, waive the preparation of a proposed report. Parties of record may file exceptions to the proposed report pursuant to R. 103-841C.~~

Statutory Authority

(Statutory Authority: 1976 Code §§ 58-3-140, 58-23-10, 58-23-590, 58-23-1010, and 58-23-1830)

History

Added by State Register Volume 31, Issue No. 4, eff April 27, 2007.

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